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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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Arizona Corporation Commission 2012 MAY 18 PM 2 13

DOCKETED

MAY 18 2012

In the matter of:

DOCKETED BY

JM

DOCKET NO. W-02015A-11-0416

ALBERT L. SMITH,

Complainant,

v.

BEAVER VALLEY WATER COMPANY, INC.,

Respondent.

**FOURTH**  
**PROCEDURAL ORDER**  
**(Continues Hearing)**

**BY THE COMMISSION:**

On November 18, 2011, Mr. Albert L. Smith ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Complaint against Beaver Valley Water Company, Inc. ("BVW" or "Company") with respect to a billing dispute involving Complainant's water bill for his residence in Payson, Arizona.

On December 19, 2011, BVW filed an Answer to the Complaint filed by Mr. Smith.

On December 22, 2011, by Procedural Order, a pre-hearing conference was scheduled on January 18, 2012.

On January 18, 2012, at the pre-hearing conference, Complainant appeared on his own behalf. Mr. Michael Davoren appeared on behalf of BVW, which he owns. Although the parties conducted settlement talks, they were unable to reach a resolution of the Complaint herein. At the conclusion of the pre-hearing conference the Complainant, Mr. Smith, was directed to file by February 8, 2012, an Amended Complaint to simplify the issues. The Company was directed to file its Answer/Response by February 21, 2012.

On January 31, 2012, Mr. Smith filed his Amended Complaint with the Commission, but he failed to serve the Company with a copy so that it could respond.

On February 17, 2012, Mr. Davoren filed a letter in the docket and stated that he had not

1 received a copy of the Amended Complaint from Mr. Smith and requested that the proceeding be  
2 dismissed.

3 On February 21, 2012, by Procedural Order, Mr. Smith was ordered to mail a copy of the  
4 Amended Complaint by February 29, 2012, to Mr. Davoren and file proof of mailing the Amended  
5 Complaint by certified U.S. mail return receipt requested in the docket. BVW was ordered to file,  
6 within fourteen days of the receipt of the Amended Complaint, BVW's Answer/Response after which  
7 a hearing would be scheduled.

8 On February 22, 2012, Mr. Smith filed proof of mailing the Amended Complaint.

9 On March 2, 2012, BVW filed its Answer/Response with the Commission.

10 On March 14, 2012, by Procedural Order, a hearing was scheduled on May 17, 2012.

11 On May 17, 2012, the Complainant appeared at the hearing. Mr. Davoren failed to appear,  
12 but earlier that week had contacted an administrative assistant in the Hearing Division to request a  
13 continuance because he was out of state. Although he had been directed to file his request in writing  
14 by faxing it to the Hearing Division, he did not do so. Despite objections by the Complainant, it is  
15 determined that the proceeding should be continued.

16 IT IS THEREFORE ORDERED that the **hearing** shall be continued from May 17, 2012, to  
17 **June 14, 2012, at 10:00 a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing  
18 Room No. 2, Phoenix, Arizona.

19 IT IS FURTHER ORDERED that that no further continuances shall be granted and if a party  
20 fails to appear at the next scheduled hearing on this matter, it may result in a default order being  
21 recommended for the Commission's approval.

22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized  
23 Communications) is in effect and shall remain in effect until the Commission's Decision in this  
24 matter is final and non-appealable.


25 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules  
26 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission  
27 *pro hac vice*.

28 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance

1 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the  
2 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances  
3 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
4 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
5 Administrative Law Judge or the Commission.

6 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,  
7 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by  
8 ruling at hearing.

9 DATED this 18<sup>TH</sup> day of May, 2012.

10  
11  
12   
13 MARC E. STERN  
ADMINISTRATIVE LAW JUDGE

14 Copies of the foregoing mailed/delivered  
15 this 18<sup>TH</sup> day of May, 2012, to:


16 Albert L. Smith  
2613 North McAllister Avenue  
17 Tempe, AZ 85281-7919

18 Michael Davoren  
BEAVER VALLEY WATER CO., INC.  
19 P.O. Box 421  
Payson, AZ 85547-0421

20 Janice Alward, Chief Counsel  
21 Legal Division  
ARIZONA CORPORATION COMMISSION  
22 1200 West Washington Street  
Phoenix, AZ 85007

23 Steven M. Olea, Director  
24 Utilities Division  
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25 1200 West Washington Street  
Phoenix, AZ 85007

26 ARIZONA REPORTING SERVICE, INC.  
27 2200 North Central Avenue, Suite 502  
Phoenix, AZ 85004-1481  
28

By:   
Debra Broyles  
Secretary to Marc E. Stern